

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT MERRIWEATHER,

Plaintiff,

No. 04-CV-71706-DT

vs.

Hon. Gerald E. Rosen

T.A. ZAMORA,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on September 30, 2005

PRESENT: Honorable Gerald E. Rosen
United States District Judge

This *Bivens* action¹ has come before the Court on the May 4, 2005 Report and Recommendation of United States Magistrate Judge R. Steven Whalen recommending that the Court deny, in part, and grant, in part, Defendant's motion to dismiss. Defendant has timely filed objections to the Report and Recommendation.

The Court has reviewed the Magistrate Judge's Report and Recommendation, Defendant's objections thereto, and the Court's entire file of this matter, and has concluded that, for the reasons stated in the Report and Recommendation, Defendant's

¹ *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 29 (1971).

motion should granted, in part, and denied, in part. With respect the Department of Justice and Court mail (Exhibits 1, 2, 4, 15, 16, 20, 23, 25, 29, 34, 37, 38, 39, 40 and 41) Defendant Zamora's motion for dismissal will be GRANTED. However, Defendant's motion to dismiss with respect to attorney mail (Exhibits 3, 7, 8, 10, 11, 13, 14, 17, 18, 22, 24, 27, 28, 33, 35 and 36) will be DENIED.

NOW, THEREFORE,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of May 4, 2005 be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Defendant's Motion to Dismiss is GRANTED with respect to Department of Justice and Court mail. Accordingly, Plaintiff's Complaint is dismissed with respect to those claims, with prejudice.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Defendant's Motion to Dismiss is DENIED as to all claims dealing with attorney mail.

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

Dated: September 30, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 30, 2005, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry

Case Manager